IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Crl.MC.No. 3373 of 2007()

LPC.21/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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PETITIONER: ACCUSED:

K.MAYAMOOD @ MAMMU, S/O.K.P.UMMERKUTTY, AGED 45, NO.560, P.H.ROAD, ARUMBAKKAM, CHENNAI-106, PERMANENTLY RESIDING AT KARIYADAN HOUSE, BEHIND POLICE QUARTERS, PALLISSERRY, THALASSERY-1.

BY ADV. SRI.P.M.HABEEB

RESPONDENT:

STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C.No. 3373 of 2007

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Dated this the 7th day of November, 2007

ORDER

Petitioner faces indictment in a prosecution for offences punishable, under Section 325 IPC. The petitioner was not available for trial. The case has been transferred to the list of long pending cases . The de facto complainant is now dead. The co-accused has already been found not guilty and was acquitted, it is submitted. The learned Magistrate has issued coercive processes against the petitioner. That warrant of arrest is chasing the petitioner now.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate and seek regular bail, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. I may hasten to observe that I have not intended to express any opinion on merits regarding the manner in which the application for bail has to be disposed of. I intend only to insist that it must be disposed of on merits on the date of surrender itself.

(R.BASANT, JUDGE)

sj